

REMARKS

The present Amendment is in response to the outstanding Office Action mailed November 13, 2008. Also included herein is a Request for Continued Examination to reopen prosecution on the merits. Finally a one-month extension of time petition is included to extend the deadline for response up to and including March 13, 2009. Entry and consideration of the enclosed remarks is respectfully requested.

As an initial matter, Applicants would like to thank the Examiner for clarifying that this Office Action is a Final Office Action, per the telephone conversation of November 17, 2008 with Phyllis Kelly.

Applicants would also like to thank the Examiner for the second interview, with the undersigned, held on March 12, 2009 to discuss possible claim amendments. Examiner and Applicants agreed that Applicants would submit a definition as to the term "fixed" in claims 1 and 6 which would demonstrate that such claims are patentable over U.S. Patent No. 5,122,130 (Keller). Applicants further agreed to amend claims 1 and 6 to include a "taper" on the second pincer. While Applicants believe these amendments overcome the outstanding rejections, Examiner agreed to review the amendment as to the 35 U.S.C. §103(a) rejection in view of U.S. Patent No 640,308 (Koch) and U.S. Patent No. 4,304,157 (Yamada et al.) and to notify Applicants via telephone in the event any further corrections were necessary to bring the application into allowance. Applicants set forth a more detailed discussion below.

Claims 1-12 are currently pending in the application, of which claims 1 and 6 are independent. Claim 12 is newly added and is dependent upon claim 1. Claim 1 is amended to include the further element of a tapered surface on the second pincer which is contacted by the sliding member to pivot the

second pincer relative to the first pincer. Claim 6 is likewise amended to include the additional element of a tapered surface on the second pincer that has an angle of taper which, when the sliding element is brought into contact with the second pincer, causes the second pincer to close and open relative to the first pincer. Claim 9 is also amended in light of the amendments to claim 6. No new matter was added with these amendments. Entry and consideration is therefore respectfully requested.

In the Office Action, Examiner rejected claims 1-9 under 35 U.S.C. §102(b) as being anticipated by Keller. This rejection was similarly made in the previous Office Action.

Applicants respectfully asserts that Keller does not disclose each and every element of the claimed invention as required under §102(b). Specifically, Keller does not disclose a "first pincer which is in a fixed position," as is required in claims 1 and 6 of the present application. Applicants respectfully assert that the term "fixed" is defined as "fastened, attached, or placed so as to be firm and not readily movable; firmly implanted; stationary; rigid." <http://dictionary.reference.com/browse/fixed>. Merriam-Webster defines "fixed" as "securely placed or fastened: stationary." 11th Ed., 2004, P. 474 (copies attached). Keller simply does not disclose a pincer that is fixed. Instead, both pincers in Keller can be moved by tube 28 such that "the two parts 24, 25 are pressed together..." Col. 6, lines 1-5. However, in the claimed invention (best shown in Figures 8a-b), first pincer 807a is clearly in a fixed position relative to the shaft 802. Since Keller does not disclose a first pincer in a fixed position, it is respectfully submitted that Keller does not teach each and every element of the claimed invention, as is required by §102(b).

Moreover, Keller does not disclose a second pincer which "is pivotally coupled with said first pincer," as claimed

in claims 1 and 6. Instead, in Keller, the second pincer is connected to the shaft in the same fashion as the first pincer whereby the second pincer is attached to the end of the shaft and flexes such that "the two parts 24, 25 are pressed together." Col. 6, lines 1-5. The second pincer, when pressed towards the first pincer, flexes along the length of the pincer body near reference no. 30. The claimed invention, on the other hand, pivots around a "single point of rotation" rather than along the length of the pincer's body. As shown in Figures 8a-b, the second pincer rotates around reference no. 818. Keller does not disclose this element of claims 1 and 6, and thus does not teach each and every element of the claimed invention.

Examiner also rejected claims 1 and 6-11 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 640,308 (Koch) in view of U.S. Patent No. 4,304,157 (Yamada et al.). This rejection was also made in a previous Office Action.

Applicants respectfully assert that the combination of Koch and Yamada et al. do not disclose the claimed invention. Specifically, neither reference discloses a second pincer having a tapered surface which is contacted by a sliding member to pivot the second pincer relative to the first pincer, as is now required by both independent claims 1 and 6. Specifically, in claim 1 of the application, the element of a "tapered surface" has been added by way of this amendment. Further, claim 6 now requires the "tapered surface" limitation, in a similar fashion to claim 1, as well as the additional limitation of the "sliding element [being] translatable into and out of contact with a tapered surface of said second pincer." This is clearly shown, for example, in Figures 8a-b, where one such tapered surface would be at reference no. 814, which is contacted by a corresponding surface 816 on the sliding element. Applicants respectfully assert that these elements are not found anywhere on Koch.

On the other hand, Koch discloses a wrench which includes a pin "e" which travels within slot "d" to position the jaw "C" relative to jaw "B." However, Koch does not disclose a "tapered surface" on the second pincer which is "contacted by a corresponding surface of the sliding member." Koch only discloses a pin and slot configuration which is different from the claimed tapered surface which is contacted by a second surface on a sliding member.

Furthermore, as to claim 6, Koch still discloses that pin "e," the "sliding element," is always in contact with slot "d," which is on the second pincer, as is seen in Figure 1. This is contrary to claim 6 which recites that the sliding element is "translatable into and out of contact" with the second pincer. It is respectfully asserted that the disclosure of Koch therefore does not teach each of the elements of claims 1 and 6. Yamada et al. cannot be used to rectify these deficiencies. Thus, even the combination of Koch and Yamada et al., does not teach each and every element of the invention set forth in independent claims 1 and 6.

Moreover, Examiner cited Yamada et al. for the element of a "biased" second pincer, and that it would have been obvious for one skilled in the art at the time of the present invention to combine that reference with Koch. Applicants respectfully submit that this combination is improper, because the structure of Koch would not motivate a person skilled in the art to look to other references for a "biased" second pincer. The structure of Koch includes a second pincer "C" attached by a pin and slot to link "g" which is in turn connected by a pin and slot to block "H" directly connected to threaded rod "I." Clearly, the structure of Koch would not benefit from a biased second pincer because each part of Koch is always connected to the adjacent parts of the structure. For example, the second pincer would never need to be biased because it is always connected via pin

and slot "e" and "d" and would never hang freely on the tool.

Claims 1 and 6 of this application, on the other hand, both require a biased second pincer. The bias is required because the sliding element may not always touch the second pincer, and the second pincer may essentially be hanging freely on the tool when in the open position, for example, as seen in Figure 8a. In order to ensure a repeatable, dependable interaction between the sliding element and the second pincer, the second pincer must be biased such that the sliding element can contact the second pincer at the correct location. This requirement is not necessary in the Koch tool since the pin and slot of Koch maintain constant contact and control between the second pincer and the link.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue.

If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that she telephone Applicants' attorney at (908) 654-5000 in order to overcome any additional objections which she might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

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